

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Case No. 05-80810

Michael Anthony Clark,

Sean F. Cox

United States District Court Judge

Defendant.

**ORDER DECLINING TO ISSUE CERTIFICATE OF APPEALABILITY AND
DENYING MOTION FOR LIBERAL CONSTRUCTION OF THE PLEADING**

On August 9, 2017, the Court issued an order adopting the February 21, 2017 Report and Recommendation of Magistrate Judge Majzoub and denying Petitioner's Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 (Doc. # 692). Petitioner now seeks a certificate of appealability (Doc. # 695) and has filed a motion for liberal construction of that pleading (Doc. # 697).

A certificate of appealability must issue before Petitioner may appeal the Court's denial of his § 2255 motion. 28 U.S.C. § 2253(c)(1)(B); Fed. R. App. P. 22(b). A certificate of appealability may issue only if Petitioner makes a substantial showing of a denial of a constitutional right. 28 U.S.C. § 2253(c)(2). "Where a district court has rejected the constitutional claim on the merits, the showing required to satisfy 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

The Court concludes that reasonable jurists would not find the Court's assessment of

Petitioner's claims debatable or wrong. Therefore, the Court declines to issue a certificate of appealability. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith. The Court also ORDERS that Petitioner's Motion for Liberal Construction is DENIED as moot.

IT IS SO ORDERED.

Dated: October 31, 2017

s/Sean F. Cox
Sean F. Cox
U. S. District Judge

I hereby certify that on October 31, 2017, the foregoing document was served on counsel of record via electronic means and upon Michael Anthony Clark via First Class mail at the address below:

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S/J. McCoy
Case Manager